

ASSEMBLY BILL

No. 2347

Introduced by Assembly Member Gonzalez

February 21, 2014

An act to amend Sections 786, 10127.9, 10127.10, 10127.13, and 10509.6 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2347, as introduced, Gonzalez. Insurance policies.

(1) Existing law requires that a disability insurance policy or life insurance policy and certificate offered for sale to individuals 65 years of age or older in California provide a 30-day examination period during which the applicant may return the contract and receive a refund of all premiums and any membership fee paid. This information is required to be disclosed on the cover sheet of the policy or certificate, in no less than 10-point uppercase type. Existing law allows the applicant to return the policy or certificate by regular mail.

This bill would specify that those requirements apply to individual and group disability and group life insurance policies and certificates. The bill would require that the notice be in 12-point bold type. The bill would allow the policyholder or certificate holder to return the policy or certificate by mail or other delivery method. The bill would also require an insurer, its agent, group master policyowner, or association that collects more than one month's premium from an individual who is 60 years of age or older on the date he or she purchased the coverage to provide that person a prorated refund of the premium if the person delivers a cancellation request during the first 30 days of the policy period.

(2) Existing law requires a policy of individual life insurance that is initially delivered or issued for delivery in the state on and after January 1, 1990, to have printed thereon or attached thereto a specified notice of cancellation rights.

This bill would require that disclosure to be printed on the cover page of every individual life insurance policy and individual annuity contract.

(3) Existing law requires specified disclosures, in all capital letters, pertaining to cancellation and refunds, to the consumers of variable individual life insurance policies and variable annuity contracts, and of consumers of individual life insurance policies other than variable contracts and modified guaranteed contracts. Existing law requires an insurer to include in those disclosures that the applicant may be charged a surrender charge or penalty if he or she cancels the policy after the 30-day period, unless the policy does not contain surrender charges or penalties.

This bill would additionally require that those disclosures be included with a modified guaranteed annuity contract, and would instead require that the disclosure be made in lowercase type. The bill would instead require the disclosure pertaining to a surrender charge or penalty to be included only if the policy contains a penalty.

(4) Existing law requires all individual life insurance policies and individual annuity contracts for senior citizens that contain a surrender charge period to either disclose the surrender period and all associated penalties in 12-point bold print on the cover sheet of the policy or disclose the location of the surrender information in bold 12-point print on the cover page of the policy or printed on a sticker that is affixed to the cover page or to the policy jacket.

This bill would instead require those policies and contracts to disclose the location of the surrender charge, surrender charge period, and surrender charge information and associated penalty information in bold 12-point print on the single cover page of the policy that also contains any statutorily required notice regarding a right to examine.

The bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 786 of the Insurance Code is amended
2 to read:

786. All individual and group disability insurance policies and certificates, and all group life insurance policies and certificates offered for sale to individuals age 65 or older in California shall provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract, at which time the applicant may return the contract. The contract. If the policyholder or certificate holder chooses to cancel the policy or certificate and returns the policy or certificate for cancellation, by mail or other delivery method, within the 30-day examination period, the return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no contract a policy or certificate had not been issued. All premiums paid and any policy or membership fee paid shall be fully refunded to the applicant policyholder or certificate holder by the insurer or entity in a timely manner.

(a) For the purposes of this section, a timely manner shall be is no later than 30 days after the insurer or entity issuing the policy or certificate receives the returned policy or certificate.

(b) If the insurer or entity issuing the policy or certificate fails to refund all of the premiums and any policy or membership fee paid, in a timely manner, then the applicant policyholder or certificate holder shall receive interest on the paid premium and policy or membership fee at the legal rate of interest on judgments as provided in Section 685.010 of the Code of Civil Procedure. The interest shall be paid from the date the insurer or entity received the returned policy or certificate.

(c) Each policy or certificate shall have a notice prominently printed in no less than 10-point uppercase type, 12-point bold print, on the cover page of the policy or certificate and the outline of coverage, stating that the applicant policyholder or certificate holder, as applicable, has the right to return the policy or certificate, by mail or other delivery method, within 30 days after its receipt via regular mail, receipt, and to have the full premium and any policy or membership fee paid refunded.

(d) In the event of any conflict between this section and Section 10127.10 with respect to life insurance, the provisions of Section 10127.10 shall prevail.

(d) If, at the time of application or at the time of delivery of a group term life insurance policy or certificate, an insurer, its agent, group master policyowner, or association collects more than one

1 *month's premium from an individual who is 60 years of age or*
2 *older on the date he or she purchased coverage, the insurer shall*
3 *provide the individual with a prorated refund of the premium if*
4 *the individual delivers a cancellation request to the insurer during*
5 *the first 30 days of the policy period.*

6 SEC. 2. Section 10127.9 of the Insurance Code is amended to
7 read:

8 10127.9. (a) (1) ~~Every policy of individual life insurance~~
9 *policy and every individual annuity contract* which is initially
10 delivered or issued for delivery in this state on and after January
11 1, 1990, shall have printed ~~thereon or attached thereto~~ *on the cover*
12 *page* a notice stating that, after receipt of the policy by the owner,
13 the policy may be returned by the owner for cancellation by
14 delivering it or mailing it to the insurer or to the agent through
15 whom it was purchased. The period of time set forth by the insurer
16 for return of the policy by the ~~insured~~ *owner* shall be clearly stated
17 ~~on the notice~~ and this period shall be not less than 10 days nor
18 more than 30 days. ~~The insured~~

19 (2) *The owner* may return the policy to the insurer by mail or
20 ~~otherwise~~ *other delivery method* at any time during the period
21 specified in the notice. In the case of individual *nonvariable* life
22 insurance policies ~~(other than variable contracts and modified~~
23 ~~guaranteed contracts)~~, *and individual nonvariable annuity*
24 *contracts, including modified guaranteed contracts,* by delivering
25 or mailing the policy pursuant to this section during the cancellation
26 period, the owner shall void the policy from the beginning, and
27 the parties shall be in the same position as if no policy had been
28 issued. All premiums paid and any policy fee paid for the policy
29 shall be refunded by the insurer to the owner within 30 days from
30 the date that the insurer is notified that the ~~insured~~ *owner* has
31 canceled the policy. In the case of *individual variable annuity*
32 ~~contracts, contracts and individual variable life insurance contracts,~~
33 ~~and modified guaranteed contracts, policies,~~ return of the ~~contract~~
34 *policy* during the cancellation period shall entitle the owner to a
35 refund of *the* account value and any policy fee paid for the policy.
36 The account value and policy fee shall be refunded by the insurer
37 to the owner within 30 days from the date that the insurer is notified
38 that the owner has canceled the policy.

39 (b) This section applies to all *individual* policies issued or
40 delivered in this state on or after January 1, 1990, but does not

1 apply to any policy subject to Section 10127.7. All policies subject
2 to this section which are in effect on January 1, 1990, shall be
3 construed to be in compliance with this section, and any provision
4 in any policy which is in conflict with this section shall be of no
5 force or effect.

6 (c) This section does not apply to individual life insurance
7 policies issued in connection with a credit transaction or issued
8 under a contractual policy-change or conversion privilege provision
9 contained in a policy.

10 (d) *General references to "policy" or "policies" in this section*
11 *refer to both life insurance policies and annuity contracts.*

12 SEC. 3. Section 10127.10 of the Insurance Code is amended
13 to read:

14 10127.10. (a) Every policy of individual life insurance and
15 every individual annuity contract that is initially delivered or issued
16 for delivery to a senior citizen in this state on and after July 1,
17 2004, shall have printed ~~thereon or attached thereto~~ *on the cover*
18 *page* a notice stating that, after receipt of the policy by the owner,
19 the policy may be returned by the owner for cancellation by
20 delivering it or mailing it to the insurer or agent from whom it was
21 purchased. The period of time set forth by the insurer for return
22 of the policy by the owner shall be clearly stated ~~on~~ *in* the notice
23 and this period shall be not less than 30 days. The owner may
24 return the policy to the insurer by mail or otherwise at any time
25 during the period specified in the notice. During the 30-day
26 cancellation period, the premium for ~~a variable annuity~~ *an*
27 *individual variable life insurance policy or an individual variable*
28 *annuity contract* may be invested only in fixed-income investments
29 and money-market funds, unless the ~~investor~~ *owner* specifically
30 directs that the premium be invested in the mutual funds underlying
31 the *variable life insurance policy or variable annuity contract*.
32 Return of the policy within the 30-day cancellation period shall
33 have one of the following effects:

34 (1) In the case of individual *variable* life insurance policies and
35 *individual* variable annuity contracts for which the owner has not
36 directed that the premium be invested in the mutual funds
37 underlying the ~~contract~~ *policy* during the cancellation period, return
38 of the policy during the cancellation period shall have the effect
39 of voiding the policy from the beginning, and the parties shall be
40 in the same position as if no policy had been issued. All premiums

1 paid and any policy fee paid for the policy shall be refunded by
2 the insurer to the owner within 30 days from the date that the
3 insurer is notified that the owner has canceled the policy. ~~The~~
4 ~~premium and policy fee shall be refunded by the insurer to the~~
5 ~~owner within 30 days from the date that the insurer is notified that~~
6 ~~the owner has canceled the policy.~~

7 (2) In the case of ~~a~~ *individual variable life insurance policies*
8 *and individual variable annuity contracts* for which the owner has
9 directed that the premium be invested in the mutual funds
10 underlying the ~~contract policy~~ during the 30-day cancellation
11 period, cancellation shall entitle the owner to a refund of the
12 account value *and any policy fee paid for the policy*. The account
13 value shall be refunded by the insurer to the owner within 30 days
14 from the date that the insurer is notified that the owner has canceled
15 the ~~contract policy~~.

16 (b) This section applies to all individual ~~policies~~ *life insurance*
17 *policies and all individual annuity contracts* issued or delivered
18 to senior citizens in this state on or after January 1, 2004. All
19 policies subject to this section which are in effect on January 1,
20 2003, shall be construed to be in compliance with this section, and
21 any provision in any policy which is in conflict with this section
22 shall be of no force or effect.

23 (c) Every individual *nonvariable* life insurance policy and every
24 individual *nonvariable* annuity contract, ~~other than variable~~
25 ~~contracts and~~ *including modified guaranteed annuity contracts*,
26 subject to this section, that is delivered or issued for delivery in
27 this state shall have the following notice ~~either~~ printed on the cover
28 page ~~or policy jacket~~ in 12-point bold print with one inch of space
29 on all sides ~~or printed on a sticker that is affixed to the cover page~~
30 ~~or policy jacket sides, using the exact language in quotation marks~~
31 *below, with whichever one of the three bracketed product*
32 *descriptions that applies to the product on which the notice*
33 *appears:*

34
35
36 “IMPORTANT

37
38 ~~YOU HAVE PURCHASED A LIFE INSURANCE POLICY~~
39 ~~OR ANNUITY CONTRACT. CAREFULLY REVIEW IT FOR~~
40 ~~LIMITATIONS.~~

1 ~~THIS POLICY MAY BE RETURNED WITHIN 30 DAYS~~
2 ~~FROM THE DATE YOU RECEIVED IT FOR A FULL REFUND~~
3 ~~BY RETURNING IT TO THE INSURANCE COMPANY OR~~
4 ~~AGENT WHO SOLD YOU THIS POLICY. AFTER 30 DAYS,~~
5 ~~CANCELLATION MAY RESULT IN A SUBSTANTIAL~~
6 ~~PENALTY, KNOWN AS A SURRENDER CHARGE.”~~

7
8
9 “IMPORTANT!

10
11 *You have purchased a [life insurance policy or annuity contract*
12 *or modified guaranteed annuity contract]. Carefully review it for*
13 *limitations.*

14 *This policy may be returned within 30 days from the date you*
15 *received it for a full refund by returning it to the insurance*
16 *company or agent who sold you this policy. After 30 days,*
17 *cancellation may result in a substantial penalty, known as a*
18 *surrender charge.”*

19
20 ~~The phrase “after sentence “After 30 days, cancellation may~~
21 ~~result in a substantial penalty, known as a surrender charge” may~~
22 ~~be deleted if the policy does not contain those charges or penalties.~~
23 ~~a surrender charge. The phrase “known as a surrender charge”~~
24 ~~may be deleted if the policy contains a penalty but no surrender~~
25 ~~charge. Whether a charge constitutes a surrender charge or a~~
26 ~~penalty shall be determined by the nature of the charge and not~~
27 ~~the name given to the charge by the insurer.~~

28 (d) Every individual variable life insurance policy and every
29 individual variable annuity contract, ~~variable life insurance~~
30 ~~contract, or modified guaranteed contract~~ subject to this section,
31 that is delivered or issued for delivery in this state, shall have the
32 following notice ~~either printed on the cover page or policy jacket~~
33 ~~in 12-point bold print with one inch of space on all sides or printed~~
34 ~~on a sticker that is affixed to the cover page or policy jacket sides,~~
35 ~~using the exact language in quotation marks below, with whichever~~
36 ~~one of the two bracketed product descriptions that applies to the~~
37 ~~product on which the notice appears:~~

38
39 “IMPORTANT
40

1 ~~YOU HAVE PURCHASED A VARIABLE ANNUITY~~
2 ~~CONTRACT (VARIABLE LIFE INSURANCE CONTRACT,~~
3 ~~OR MODIFIED GUARANTEED CONTRACT). CAREFULLY~~
4 ~~REVIEW IT FOR LIMITATIONS.~~

5 ~~THIS POLICY MAY BE RETURNED WITHIN 30 DAYS~~
6 ~~FROM THE DATE YOU RECEIVED IT. DURING THAT~~
7 ~~30-DAY PERIOD, YOUR MONEY WILL BE PLACED IN A~~
8 ~~FIXED ACCOUNT OR MONEY-MARKET FUND, UNLESS~~
9 ~~YOU DIRECT THAT THE PREMIUM BE INVESTED IN A~~
10 ~~STOCK OR BOND PORTFOLIO UNDERLYING THE~~
11 ~~CONTRACT DURING THE 30-DAY PERIOD. IF YOU DO~~
12 ~~NOT DIRECT THAT THE PREMIUM BE INVESTED IN A~~
13 ~~STOCK OR BOND PORTFOLIO, AND IF YOU RETURN THE~~
14 ~~POLICY WITHIN THE 30-DAY PERIOD, YOU WILL BE~~
15 ~~ENTITLED TO A REFUND OF THE PREMIUM AND POLICY~~
16 ~~FEES. IF YOU DIRECT THAT THE PREMIUM BE INVESTED~~
17 ~~IN A STOCK OR BOND PORTFOLIO DURING THE 30-DAY~~
18 ~~PERIOD, AND IF YOU RETURN THE POLICY DURING THAT~~
19 ~~PERIOD, YOU WILL BE ENTITLED TO A REFUND OF THE~~
20 ~~POLICY'S ACCOUNT VALUE ON THE DAY THE POLICY~~
21 ~~IS RECEIVED BY THE INSURANCE COMPANY OR AGENT~~
22 ~~WHO SOLD YOU THIS POLICY, WHICH COULD BE LESS~~
23 ~~THAN THE PREMIUM YOU PAID FOR THE POLICY. A~~
24 ~~RETURN OF THE POLICY AFTER 30 DAYS MAY RESULT~~
25 ~~IN A SUBSTANTIAL PENALTY, KNOWN AS A SURRENDER~~
26 ~~CHARGE.”~~

27
28
29 *“IMPORTANT!*
30

31 *You have purchased a [variable life insurance policy or variable*
32 *annuity contract]. Carefully review it for limitations.*

33 *This policy may be returned within 30 days from the date you*
34 *received it. During that 30-day period, your money will be placed*
35 *in a fixed account or money-market fund, unless you direct that*
36 *the premium be invested in a stock or bond portfolio underlying*
37 *the policy during the 30-day period. If you do not direct that the*
38 *premium be invested in a stock or bond portfolio, and if you return*
39 *the policy within the 30-day period, you will be entitled to a refund*
40 *of the premium and any policy fee paid. If you direct that the*

1 *premium be invested in a stock or bond portfolio during the 30-day*
2 *period, and if you return the policy during that period, you will*
3 *be entitled to a refund of the policy's account value on the day the*
4 *policy is received by the insurance company or agent who sold*
5 *you this policy, which could be less than the premium you paid for*
6 *the policy, plus any policy fee paid. A return of the policy after 30*
7 *days may result in a substantial penalty, known as a surrender*
8 *charge."*

9
10 The words "~~known~~ sentence "A return of the policy after 30
11 *days may result in a substantial penalty, known as a surrender*
12 *charge"* may be deleted if the ~~contract~~ policy does not contain
13 ~~those charges~~ a surrender charge. The phrase "*known as a*
14 *surrender charge*" may be deleted if the policy contains a penalty
15 *but no surrender charge. Whether or not a charge constitutes a*
16 *surrender charge or a penalty will be determined by the nature of*
17 *the charge and not the name given to the charge by the insurer.*

18 (e) *If the individual annuity contract is an immediate annuity*
19 *contract, the following sentence, using the exact language in*
20 *quotation marks below, in 12-point bold print, shall be added at*
21 *the end of the right to examine language required by this section*
22 *and before the one inch of space:*

23
24 "After the 30-day period has expired, you may not be able to
25 get your purchase payment money back in any manner, or in any
26 manner other than in annuity payments made according to the
27 terms of your contract. The insurance company or agent who sold
28 you this contract can explain if your contract has these
29 restrictions."

30
31 (e)

32 (f) This section does not apply to life insurance policies issued
33 in connection with a credit transaction or issued under a contractual
34 policy-change or conversion privilege provision contained in a
35 policy. ~~Additionally, this section shall not apply to contributory~~
36 ~~and noncontributory employer group life insurance, contributory~~
37 ~~and noncontributory employer group annuity contracts, and group~~
38 ~~term life insurance, with the exception of subdivision (f).~~

39 (f) ~~When an insurer, its agent, group master policyowner, or~~
40 ~~association collects more than one month's premium from a senior~~

1 citizen at the time of application or at the time of delivery of a
2 group term life insurance policy or certificate, the insurer must
3 provide the senior citizen a prorated refund of the premium if the
4 senior citizen delivers a cancellation request to the insurer during
5 the first 30 days of the policy period.

6 (g) For purposes of this chapter, a senior citizen means an
7 individual who is 60 years of age or older on the date of purchase
8 of the policy.

9 (h) *General references to “policy” or “policies” in this section*
10 *refer to both life insurance policies and annuity contracts.*

11 SEC. 4. Section 10127.13 of the Insurance Code is amended
12 to read:

13 10127.13. (a) All individual life insurance policies and
14 individual annuity contracts for senior citizens that contain a
15 surrender charge period shall ~~either disclose the surrender period~~
16 ~~and all associated penalties in 12-point bold print on the cover~~
17 ~~sheet of the policy or~~ disclose the location of the surrender
18 ~~information charge, surrender charge period, and surrender~~
19 *charge information, as well as any associated penalty information,*
20 *in bold 12-point print on the cover page of the policy, or printed*
21 *on a sticker that is affixed to the cover page or to the policy jacket.*
22 *policy.* The notice required by this section may appear on a cover
23 sheet that also contains the disclosure required by subdivision (d)
24 of Section 10127.10.

25 (b) *The notice required by subdivision (a) shall be set forth on*
26 *the single cover page of the policy that also contains any statutorily*
27 *required notice regarding a right to examine.*

28 (c) *General references to “policy” in this section refer to both*
29 *life insurance policies and annuity contracts.*

30 SEC. 5. Section 10509.6 of the Insurance Code is amended to
31 read:

32 10509.6. Every life insurer that uses an agent in a life insurance
33 or annuity sale shall do the following:

34 (a) Require with or as part of each completed application for
35 life insurance or annuity, a statement signed by the agent as to
36 whether he or she knows replacement is or may be involved in the
37 transaction.

38 (b) Where a replacement is involved:

39 (1) Require from the agent with the application for life insurance
40 or annuity: (i) a list of all of the applicant's existing life insurance

1 or annuity to be replaced, and (ii) a copy of the replacement notice
2 provided the applicant pursuant to Section 10509.4. The existing
3 life insurance or annuity shall be identified by name of insurer,
4 insured, and contract number. If a number has not been assigned
5 by the existing insurer, alternative identification, such as an
6 application or receipt number shall be listed.

7 (2) Send to each existing life insurer a written communication
8 advising of the replacement or proposed replacement and the
9 identification information obtained pursuant to this section and a
10 policy summary, contract summary, or ledger statement containing
11 policy data on the proposed life insurance or annuity. Cost indices
12 and equivalent level annual dividend figures need not be included
13 in the policy summary or ledger statement. This written
14 communication shall be made within three working days of the
15 date the application is received in the replacing insurer's home or
16 regional office, or the date the proposed policy or contract is issued,
17 whichever is sooner.

18 (3) Every existing life insurer or the insurer's agent that
19 undertakes a conservation shall, within 20 days from the date the
20 written communication plus the materials required in subdivisions
21 (1) and (2) are received by the existing insurer, furnish the
22 policyowner with a policy summary for the existing life insurance
23 or ledger statement containing policy data on the existing policy
24 or annuity. Information relating to premiums, cash values, death
25 benefits, and dividends, if any, shall be computed from the current
26 policy year of the existing life insurance. The policy summary or
27 ledger statement shall include the amount of any outstanding
28 indebtedness, the sum of any dividend accumulations or additions,
29 and may include any other information that is not in violation of
30 any regulation or statute. Cost indices and equivalent level annual
31 dividend figures need not be included. When annuities are
32 involved, the disclosure information shall be that in the contract
33 summary.

34 The replacing insurer may request the existing insurer to furnish
35 it with a copy of the summaries or ledger statement, which shall
36 be within five working days of the receipt of the request.

37 (c) The replacing insurer shall maintain evidence of the "notice
38 regarding replacement," the policy summary, the contract summary,
39 and any ledger statements used, and a replacement register,
40 cross-indexed by replacing agent and existing insurer to be

1 replaced. The existing insurer shall maintain evidence of policy
2 summaries, contract summaries, or ledger statements used in any
3 conservation. Evidence that all requirements were met shall be
4 maintained for at least three years.

5 (d) The replacing insurer shall provide ~~in its policy or in~~ *on the*
6 *cover page of its life insurance policy or annuity contract or,*
7 *alternatively, as a separate written* ~~notice~~ *document* which is
8 delivered with the *life insurance policy or annuity contract, a*
9 *notice stating that the* ~~applicant~~ *owner* has a right to an
10 unconditional refund of all premiums paid which right may be
11 exercised within a period of 30 days commencing from the date
12 of delivery of the ~~policy contract~~. In the case of variable ~~annuity~~
13 ~~contracts, annuities, and variable life insurance contracts, and~~
14 ~~modified guaranteed contracts, insurance,~~ return of the contract
15 during the cancellation period shall entitle the owner to a refund
16 of *the* account value and any policy fee ~~paid for the policy.~~ *paid.*
17 The account value and policy fee shall be refunded by the insurer
18 to the owner within 30 days from the date that the insurer is notified
19 that the owner has canceled the ~~policy.~~ *contract.*